



**UNITED STATES DEPARTMENT OF COMMERCE**  
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SERIAL NUMBER	11/15/97	FILING DATE	11/15/97	CLASS	01	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

QM41/0608

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ROHLER EXAMINER	
ART UNIT	PAPER NUMBER
06/08/98	

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

# Advisory Action

Application No.  
08/951,832

Applicant(s)  
Lina et al.

Examiner  
Dennis Ruhl

Group Art Unit  
3308



## THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☐ expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection. 6/8

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on \_\_\_\_\_ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on May 4, 1998 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

### ☒ The proposed amendment(s):

- ☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- ☒ will not be entered because:
- ☒ they raise new issues that would require further consideration and/or search. (See note below).
  - ☐ they raise the issue of new matter. (See note below).
  - ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: The dependency of claim 8 is unclear. It appears that instead of a "1" applicant has a "I". This needs to be corrected.

### ☒ Applicant's response has overcome the following rejection(s):

Assuming the dependency problem is corrected the 112 rejection to claim 8 is overcome.

- ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.
- ☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
applicant is attacking the primary reference by stating that it is non-analogous to the problem applicant is solving. This is improper and non-persuasive. The combination of prior art must be addressed not just the primary reference. Additional
- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: 13

Claims objected to: \_\_\_\_\_

Claims rejected: 1-12, 14, and 15

- ☐ The proposed drawing correction filed on \_\_\_\_\_ ☐ has ☐ has not been approved by the Examiner.

- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

- ☒ Other applicant needs to state why the primary reference is deficient. Collection of urine is analogous to collection of other types of fluid. Applicant is arguing the intended use of the invention and this is non-persuasive. The article does not know or care how it is being used. The arguments concerning claims 14, 15 are so vague the examiner cannot address them. No specifics have been set forth by applicant.

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SUPERVISORY PATENT EXAMINE  
GROUP 3300